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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,038	11/26/2003	Ron Pickarski	4215EC-1	7799

22442 7590 10/20/2005

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EXAMINER

WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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101705

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Commissioner for Patents

Newly submitted claims 18-34 are directed to an invention (i.e. process) that is independent or distinct from the invention originally claimed (i.e. product) for the following reasons:

The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product may be made by a process wherein collagen is added directly to the dehydrated plant protein which is then added to the animal protein source.

Since applicant has received an action on the merits for the originally presented invention, the product invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18-34 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

However, it should be further noted that the amendment filed on 7/25/05 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). There are no remaining claims readable on the invention elected by original presentation (i.e. product claims).

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Anthony Weier
October 17, 2005

Anthony Weier
Primary Examiner
Art Unit: 1761
10/17/05